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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,386	07/02/2003	Claes Lindgren	VAS-3	3193
22827	7590	06/02/2006	EXAMINER	
DORITY & MANNING, P.A. POST OFFICE BOX 1449 GREENVILLE, SC 29602-1449			A, PHI DIEU TRAN	
			ART UNIT	PAPER NUMBER
			3637	

DATE MAILED: 06/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/612,386	<b>Applicant(s)</b> LINDGREN ET AL.	
	<b>Examiner</b> Phi D. A	<b>Art Unit</b> 3637	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-7, 9-10, 12-14, 16-30, 32 are rejected under 35 U.S.C. 102(b) as being anticipated by Weiss (5682713).

Weiss (figure 4) shows a skylight with sealing gasket comprising a frame defining an interior opening, the frame including an inner side surface that will face an outer surface of a curb when the frame is installed thereupon so as to define a first gap therebetween, the frame also including a bottom surface that will face an upper top surface of the curb when installed thereupon so as to define a second gap therebetween, at least one light transmitting section (300) disposed within the frame (304), a gasket (part 308 and the part which is attached by screw 305) disposable between the frame and the curb and between the light transmitting section and the curb, the gasket including a main body portion, the main body portion disposed to contact the upper top surface of the curb and to contact the bottom surface of the light transmitting section and to extend across the second gap when the frame is installed upon the curb, the gasket also including a first arm extending from the main body portion, the first arm extendable across the first gap and contactable with the inner side surface of the frame when the frame is installed upon the curb, the gasket having a second arm extended from the main body portion, the second arm contacting the inner side surface of the frame (the part which supports the glass pane and the part that extends into the curb), the first arm is more flexible than the main body portion

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(inherently so as the part tapers along its length and thinner than the main body), the second arm having a tip (the part that supports the pane) that is more flexible than the rest of the second arm, the gasket having a third and fourth arm extending from the main body portion and contactable with the bottom surface of the skylight (contacting indirectly through the frame), the third and fourth arms being more flexible than the main body portion (inherently so as the arms are elongated and thinner than the main body portion), the gasket having a fifth arm (the arm opposite the part that supports the pane) extending from the main body portion and contactable with the upper top surface of the curb, the fifth arm having first and second fingers extending therefrom contactable with the upper surface of the curb, the first and second fingers being more flexible than the rest of the fifth arm (inherently so as it is thinner), the frame including an inward protrusion defining a lip and the second arm contacts the lip, the second arm is secured to the lip of the skylight, certain portions of the gasket are more flexible than other portions of the gasket.

3. Claims 1-2, 6-8, 11, 13, 15, 23-24, 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Wasserman (3034260).

Wasserman (figures 1-2) shows a skylight with sealing gasket comprising a frame defining an interior opening, the frame including an inner side surface that will face an outer surface of a curb when the frame is installed thereupon so as to define a first gap therebetween, the frame also including a bottom surface that will face an upper top surface of the curb when installed thereupon so as to define a second gap therebetween, at least one light transmitting section (23) disposed within the frame (26), a gasket (figure 1) disposable between the frame and the curb and between the light transmitting section and the curb, the gasket including a main

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body portion, the main body portion disposed to contact the upper top surface of the curb and to contact the bottom surface of the light transmitting section and to extend across the second gap when the frame is installed upon the curb, the gasket also including a first arm extending from the main body portion, the first arm extendable across the first gap and contactable with the inner side surface of the frame when the frame is installed upon the curb, the gasket having a second arm (3) extended from the main body portion, the second arm contacting the inner side surface of the frame, the gasket having a fifth arm (8, 2, 3') extending from the main body portion and contactable with the upper top surface of the curb, the fifth arm having first and second fingers extending therefrom contactable with the upper surface of the curb, the fifth arm having a third finger (2, the one next to part 7) extending in a direction opposite from the second finger(3'), the first and second fingers being more flexible than the rest of the fifth arm (inherently so the main body portion including corner joint which reinforces the structure), the first and second fingers being more flexible than the third finger ( inherently so as the third finger is shorter) and the main body portion, the second arm having at least one drainage opening (34) therethrough, the frame also having a inward protrusion (created by the bolt and nut extension) defining a lip.

#### ***Response to Arguments***

4. Applicant's arguments filed 3/15/06 have been fully considered but they are not persuasive.

Applicant states that Weiss does not show the main body portion disposed to contact the upper top surface of the curb and to contact the bottom surface of the light transmitting section as set forth claims 1 and 13, examiner respectfully disagrees. As set forth in the previous office action and repeated above, the gasket is made of part 308 and the part, which is attached by

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screw 305. The gasket as set forth, meets all the claimed structural limitations including the limitation of contacting the bottom surface of the light transmitting section. The part, which is attached by screw 305, as shown in figure 4, contacts the bottom surface of the light transmitting section. The argument is thus moot.

With respect to claims 22, 23, Weiss shows the part, which is attached by screw 305 as shown in figure 4, contacts the bottom surface of the light transmitting section. The gasket also function to define a weather resistant seal as it covers the structure. the reference thus shows the limitations as claimed. The argument is thus moot.

5. With respect to Wasserman, applicant states that the structure as set forth by the examiner is not a gasket, examiner respectfully disagrees. The structure as set forth by the examiner meets all the claimed structural limitations. The structure is also able to function as claimed. The structure is thus a proper 102 rejection. In response to applicant's argument that the gasket as described by the examiner has a different use from the gasket claimed, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. The argument is thus moot.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 571-272-6864. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Phi Dieu Tran A

PA

5/29/06

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